

## Department of Health and Human Services

## § 60.3

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AUTHORITY: Secs. 401-432 of the Health Care Quality Improvement Act of 1986, Pub. L. 99-660, 100 Stat. 3784-3794, as amended by section 402 of Pub. L. 100-177, 101 Stat. 1007-1008 (42 U.S.C. 11101-11152).

SOURCE: : 54 FR 42730, Oct. 17, 1989, unless otherwise noted.

### Subpart A—General Provisions

#### § 60.1 The National Practitioner Data Bank.

The Health Care Quality Improvement Act of 1986 (the Act), title IV of Pub. L. 99-660, as amended, authorizes the Secretary to establish (either directly or by contract) a National Practitioner Data Bank to collect and release certain information relating to the professional competence and conduct of physicians, dentists and other health care practitioners. These regulations set forth the reporting and disclosure requirements for the National Practitioner Data Bank.

#### § 60.2 Applicability of these regulations.

The regulations in this part establish reporting requirements applicable to hospitals; health care entities; Boards of Medical Examiners; professional societies of physicians, dentists or other health care practitioners which take adverse licensure of professional review actions; and entities (including insurance companies) making payments as a result of medical malpractice actions or claims. They also establish procedures to enable individuals or entities to obtain information from the National Practitioner Data Bank or to

dispute the accuracy of National Practitioner Data Bank information.

[59 FR 61555, Dec. 1, 1994]

#### § 60.3 Definitions.

*Act* means the Health Care Quality Improvement Act of 1986, title IV of Pub. L. 99-660, as amended.

*Adversely affecting* means reducing, restricting, suspending, revoking, or denying clinical privileges or membership in a health care entity.

*Board of Medical Examiners*, or *Board*, means a body or subdivision of such body which is designated by a State for the purpose of licensing, monitoring and disciplining physicians or dentists. This term includes a Board of Osteopathic Examiners or its subdivision, a Board of Dentistry or its subdivision, or an equivalent body as determined by the State. Where the Secretary, pursuant to section 423(c)(2) of the Act, has designated an alternate entity to carry out the reporting activities of § 60.9 due to a Board's failure to comply with § 60.8, the term *Board of Medical Examiners* or *Board* refers to this alternate entity.

*Clinical privileges* means the authorization by a health care entity to a physician, dentist or other health care practitioner for the provision of health care services, including privileges and membership on the medical staff.

*Dentist* means a doctor of dental surgery, doctor of dental medicine, or the equivalent who is legally authorized to practice dentistry by a State (or who, without authority, holds himself or herself out to be so authorized).

*Formal peer review process* means the conduct of professional review activities through formally adopted written procedures which provide for adequate notice and an opportunity for a hearing.

*Health care entity* means:

(a) A hospital;

(b) An entity that provides health care services, and engages in professional review activity through a formal peer review process for the purpose of furthering quality health care, or a committee of that entity; or

(c) A professional society or a committee or agent thereof, including those at the national, State, or local level, of physicians, dentists, or other

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health care practitioners that engages in professional review activity through a formal peer review process, for the purpose of furthering quality health care.

For purposes of paragraph (b) of this definition, an entity includes: a health maintenance organization which is licensed by a State or determined to be qualified as such by the Department of Health and Human Services; and any group or prepaid medical or dental practice which meets the criteria of paragraph (b).

*Health care practitioner* means an individual other than a physician or dentist, who is licensed or otherwise authorized by a State to provide health care services.

*Hospital* means an entity described in paragraphs (1) and (7) of section 1861(e) of the Social Security Act.

*Medical malpractice action or claim* means a written complaint or claim demanding payment based on a physician's, dentists or other health care practitioner's provision of or failure to provide health care services, and includes the filing of a cause of action based on the law of tort, brought in any State or Federal Court or other adjudicative body.

*Physician* means a doctor of medicine or osteopathy legally authorized to practice medicine or surgery by a State (or who, without authority, holds himself or herself out to be so authorized).

*Professional review action* means an action or recommendation of a health care entity:

(a) Taken in the course of professional review activity;

(b) Based on the professional competence or professional conduct of an individual physician, dentist or other health care practitioner which affects or could affect adversely the health or welfare of a patient or patients; and

(c) Which adversely affects or may adversely affect the clinical privileges or membership in a professional society of the physician, dentist or other health care practitioner.

(d) This term excludes actions which are primarily based on:

(1) The physician's, dentist's or other health care practitioner's association, or lack of association, with a professional society or association;

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(2) The physician's, dentist's or other health care practitioner's fees or the physician's, dentist's or other health care practitioner's advertising or engaging in other competitive acts intended to solicit or retain business;

(3) The physician's, dentist's or other health care practitioner's participation in prepaid group health plans, salaried employment, or any other manner of delivering health services whether on a fee-for-service or other basis;

(4) A physician's, dentist's or other health care practitioner's association with, supervision of, delegation of authority to, support for, training of, or participation in a private group practice with, a member or members of a particular class of health care practitioner or professional; or

(5) Any other matter that does not relate to the competence or professional conduct of a physician, dentist or other health care practitioner.

*Professional review activity* means an activity of a health care entity with respect to an individual physician, dentist or other health care practitioner:

(a) To determine whether the physician, dentist or other health care practitioner may have clinical privileges with respect to, or membership in, the entity;

(b) To determine the scope or conditions of such privileges or membership; or

(c) To change or modify such privileges or membership.

*Secretary* means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

*State* means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

[54 FR 42730, Oct. 17, 1989; 54 FR 43890, Oct. 27, 1989]